

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

NELLIE BEATRICE REDIKER

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2293

Decision No. CU -4249

AMENDED PROPOSED DECISION

This claim based on the asserted loss of certain real and personal property in Cuba was denied by the Commission by Proposed Decision issued November 26, 1969, inasmuch as the evidence of record was insufficient to establish the claim. The record now establishes that claimant acquired nationality of the United States through her parents in 1919.

Claimant has subsequently submitted documents, affidavits, and other evidence in support of her claim.

On the basis of the record, the Commission finds that she owned a home in Cojimar, Havana, Cuba and the household furnishings therein.

Claimant states that when she requested on June 16, 1966 to return to the United States the Cuban military took her home. She states that she arrived in the United States on June 18, 1966. Based on the evidence of record the Commission finds that claimant's home was taken by the Government of Cuba on June 16, 1966. The Commission further finds that the furnishings therein was also taken on that date.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

The record includes in support of the claimed values, a recitation of the plot area as 1,050 square meters; a description of the house as constructed on 2 levels and completely surrounded by a concrete and field stone patio with 2-car garage, storage room and servant's quarters. She has submitted a number of photographs of the house reflecting interior and landscaping. The record also includes an affidavit by an architect familiar with the property who estimates the value of the land at \$25.00 per square meter; states that he had visited her home many times and estimates the minimum value of her house and furnishings as \$40,000 and \$10,000, respectively. Claimant has also submitted an itemized list of the household furnishings and other personalty in the house, including approximate dates of acquisition and estimated values when taken.

Based on the evidence of record the Commission finds that claimant's asserted values of \$62,750.00 and \$8,548.00 for her home and personalty are fair and reasonable, and concludes that she suffered a loss in the total amount of \$71,298.00 as the result of the taking of her property by the Government of Cuba on June 16, 1966.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

Accordingly, the following certification of loss will be entered and in all other respects the Proposed Decision is affirmed.

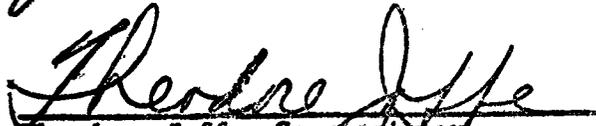
CERTIFICATION OF LOSS

The Commission certifies that NELLIE BEATRICE REDIKER suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Seventy-One Thousand Two Hundred Ninety-Eight Dollars (\$71,298.00) with interest at 6% per annum from June 16, 1966 to the date of settlement.

Dated at Washington, D.C., and entered as the Amended Proposed Decision of the Commission

MAY 5 1971

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Amended Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended (1970).)

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Claim No. CU -2293

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PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$71,298.00, was presented by NELLIE BEATRICE REDIKER and is based upon the asserted loss of real and personal property in Cuba. Claimant stated that she acquired nationality of the United States through her parents.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts that she owned certain personal property valued at \$8,548.00 and improved realty valued at \$62,750.00, briefly described as a plot of 1,210 square meters of land improved by a home having a 2-car garage and a servants room apart from the residence.

By Commission letter of August, 1967, claimant was advised, as to the type of evidence proper for submission to establish this claim under the Act.

On September 20, 1967 claimant was invited to submit any evidence available to her within 45 days from that date, and she was informed, that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. On October 4, 1968 she was informed of the reduction in the Commission's staff and reminded of the elements of claim to be established.

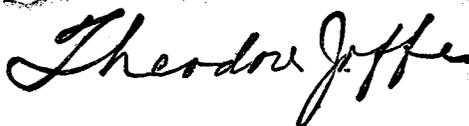
On April 9, 1969 she was informed that her letter of April 4, 1969 to the Department of State had been transferred to the Commission and she was sent material received from abroad. It was suggested she resubmit pertinent

material with translations. Since no reply was received she was reminded by letter of August 7, 1969 that the suggested evidence should be submitted within 45 days. No reply or evidence has since been submitted.

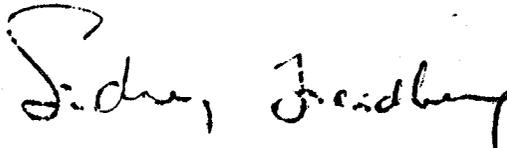
The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership of rights and interest in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D.C.,  
and entered as the Proposed  
Decision of the Commission

NOV 26 1969



Theodore Jaffe, Commissioner



Sidney Fendberg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

CU-2293